

FOREIGN BANKING

CHAPTER 80-7-1

BANKING ACTIVITIES IN GEORGIA BY ORGANIZATIONS DOMICILED OUTSIDE OF GEORGIA

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80-7-1-.01 Definitions.

(1) Unless further defined herein, definitions contained in provisions of Georgia Code Ann., Title 7, the Financial Institutions Code of Georgia (FIC), shall be applicable to this Chapter.

(2) Definitions contained herein shall be applicable to FIC Sections 7-1-590 and 7-1-710 through 7-1-734.

(3) Further definitions:

(a) "Parent Organization" shall mean the corporate entity containing any FBO located in this State and any affiliate (see FIC subsection 7-1-4(1)) of such entity.

(b) "Foreign Banking Organization (FBO)" shall mean an "International Bank Agency," an "International Bank Representative Office," a "Domestic International Banking Facility," and a "Business Production Office."

(c) "Business Production Office" shall mean a "Representative Office" as discussed in FIC Section 7-1-590 and shall include any corporate subsidiary (see FIC subsection 7-1-4(37)) of a bank domiciled outside of this State which maintains an office within this State.

(d) "Temporary Advances" shall mean credit balances which bear interest.

Authority Ga. L. 1974, pp. 705, 733.

80-7-1-.02 Status of Georgia Institutions.

Banks chartered by this State or by National Banking Associations domiciled in this State shall, unless otherwise restricted, have the same rights, privileges, and responsibilities as are granted to FBO's herein or by statute.

Authority Ga. L. 1974, pp. 705, 733, 922.

80-7-1-.03 Applications and Registrations.

(1) Applications and registrations of FBO's shall be on forms prescribed by and available through the Department.

(2) Applications and registration forms shall be accompanied by such additional information as is required by FIC Sections 7-1-713 and 7-1-715 in the case of an applicant for an International Bank

Agency license or FIC Section 7-1-732 in the case of an applicant for a Domestic International Banking Facility.

(3) Domestic International Banking Facilities shall pay the same fees as an International Bank Agency under the provisions of Rule Chapter 80-5-1. Other FBO's shall pay fees in accordance with Rule 80-5-1.

(4) Applications and registrations shall be accepted only where the parent organization of the applicant or an affiliate of such organization is recognized by its chartering authority or other appropriate governmental body in the country of its domicile as a banking institution with the legal authority to accept deposits from the citizens of that country.

Authority Ga. L. 1974, pp. 705, 733, 919; 1978, pp. 712, 713; 1981, pp. 770, 771.

80-7-1-.04 Interpretations.

(1) The phrase "deposits subject to check or draft" as used in FIC Sections 7-1-730 through 7-1-734 shall not include deposits withdrawn by wire transfer or by check or draft where the check or draft is payable to the owner of the deposit or an affiliate of the owner and where there are five or fewer checks/drafts in any thirty-day (30) period.

(2) For purposes of distinguishing between "deposits" and "credit balances," the following guidelines shall be applicable:

(a) The maintenance of all credit balances shall be supported by appropriate file memorandum relating to the class of credit balances generally, e.g., compensating loan balances, letter of credit transactions, or to the specific credit balance being maintained and its related exercise of lawful power. Such memorandum shall recite the terms under which the credit balance(s) is maintained, the nature of the transaction out of which the credit balance arose, and the terms under which the credit balance must be terminated.

(b) Access to credit balance accounts (other than by internally generated entry) may be by draft or transfer. Such items should not represent any significant volume relative to the nature of the account and should be two-party items, i.e., the payee should also be either the maker, the international bank, or an affiliate of the maker or international bank.

(c) The foregoing shall not be applicable to accounts (operating expenses) payable arising out of the operations of the International Bank Agency in the ordinary course of business nor shall it curtail the right of such an Agency to borrow money and issue obligations to evidence such borrowings.

(d) Balances maintained by corporations and divisions affiliated with an International Bank Agency shall not be considered to be deposits even though not maintained in strict compliance with the foregoing.

(e) Balances maintained by salaried employees of an International Bank Agency shall not be considered deposits even though not maintained in strict compliance with the foregoing.

(3) The phrase "through its parent organization" as used in FIC Section 7-1-731 includes funds placed with and used internally for the benefit of the parent organization.

Authority Ga. L. 1974, pp. 705, 733.

80-7-1-.05 Operating Restrictions.

(1) Balances maintained in violation of restrictions against deposits shall be returned to the owner within ninety (90) days of receipt of a notice from the Department to terminate the account unless a review by the Department at the written request of the FBO results in a determination that the balance should be allowed to remain on the books of the FBO.

(2) Each FBO shall maintain separate accounting records covering its assets, liabilities, income and expenses resulting from the operations located in this State. Such records may be reviewed by the Department to determine that the scope of the activities of the FBO in this State is within the limitations prescribed by law. The results of the Department review shall be maintained and treated by the Department in the same manner as Reports of Examination and may, in the discretion of the Department, be provided to other regulatory authorities to whom the parent organization is accountable.

(3) No FBO shall be eligible to act as a fiduciary in the State or to provide fiduciary services as a consequence of its maintaining a place of business within this State or of its licensing or registration by the Department.

Authority Ga L. 1974, pp. 705, 733, 922; Ga. L. 1981, pp. 770, 773.

80-7-1-.06 Lockbox Operations Involving Banks Domiciled Outside of Georgia.

(1) For purposes of this Rule 80-7-1-.06:

(a) Party "A" shall mean the customer or purchaser of lockbox services;

(b) Party "B" shall mean the Georgia depository bank or banks for items received through a lockbox service;

(c) Party "C" shall mean the lockbox operator;

(d) Party "D" shall mean the non-Georgia bank sponsor or consultant to Party A or Party C with respect to lockbox services; and

(e) "Lockbox service" shall mean an arrangement whereby Party C maintains a place of business in this state at which it receives checks or drafts (items) payable to Party A, accumulating such items and depositing them into an account maintained at a location of Party B for the purpose of commencing the clearing and collection process relative to such items.

(2) A bank (whether acting as Party C or Party D) domiciled outside of Georgia shall be deemed to operate a "Business Production Office" and shall not be deemed to be engaged in the business of banking in this state relative to a lockbox service to be offered through a location in Georgia and a nonbank operator shall not be deemed to be engaged in the business of banking in this state relative to such lockbox service, provided:

(a) Each deposit account maintained with Party B shall be maintained at all times an account of Party A, or its duly authorized agent, under the control of such Party A or its duly authorized agent for the principal purpose of providing lockbox services; provided, however, that the duly authorized agent of Party A shall not be a bank;

(b) Account balance access mechanisms shall be solely a matter of contract between Party A, or its duly authorized agent, and Party B and shall not be conditions precedent to contracting for lockbox services by and between Party A, Party C, and/or Party D.

(3) The purpose of this Rule is to separate as a matter of contract between the parties and in practice the normal bank/customer relationship from the relationship resulting from nonbanking operation of a lockbox service so that the normal operation of the separate activities can continue without contravention of statutes and regulations governing either activity through contractual or agency arrangements tying the two activities together.

Authority Ga. L. 1974, pp. 705, 733.